

apply. Please let me know what you think and whether any language on this issue should be included in the above.

****NOTE: Under Wisconsin law, municipalities collect property taxes and certain other taxes such as room taxes for hotels and motels. Any audit requirements that might apply to those taxes will probably not appear relevant to the fees due under this substitute amendment. Let me know if you want to make any changes regarding this issue.

****NOTE: What if a cable franchise terminates after the municipality gives a video service franchisee notice of the audit requirements? What requirements apply to the video service franchisee and how is the video service franchisee notified of them?

****NOTE: Is it possible that a municipality has issued more than one cable franchise under current law? Could those franchises have different audit requirements? If so, what requirements should apply to a video service franchisee?

(b) Acceptance by a municipality of amounts remitted by a video service franchise shall not be construed as an accord that the amounts are correct.

(c) Any additional amount due after an audit shall be paid within 30 days after the municipality's submission of an invoice for the sum.

(9) REQUIREMENTS TO PROVIDE VIDEO SERVICES. (a) *Discrimination prohibited.*

A video service franchisee may not deny access to cable or video service to any potential residential subscribers because of the race or income of the residents in the local area in which the potential subscribers reside.

****NOTE: What does "local area" mean?

(b) *Access; generally.* For purposes of this subsection, a video service franchisee provides access to its cable or video service to a household if the video service franchisee is capable of providing cable or video services at the household address using any technology, other than direct-to-home satellite service, that provides 2-way broadband Internet capability, and video programming, content, and functionality which are demonstrably similar to video programming, content, and functionality provided through the video service franchisee's video service system, regardless of whether any customer at the household address has ordered service or whether the owner or landlord or other responsible person has granted access to the

1 household address. If more than one technology is used, access is provided only if the
2 technologies provide similar 2-way broadband Internet capability and similar video
3 programming.

****NOTE: The above is based on the definition of "access" included in the proposal.
I was a little confused about the definition's last sentence, so please review the changes
that I made to it.

4 (c) *Access; more than 500,000 lines.* If a video service franchisee uses
5 telecommunications facilities to provide cable or video service and has, on the
6 effective date of this paragraph [revisor inserts date], more than 500,000
7 telecommunications access lines in this state, the video service franchisee shall do
8 all of the following:

9 1. Except as provided in subds. 2. and 3., provide access to its cable or video
10 service to a number of households equal to at least 35 percent of the households in
11 the video service franchisee's telecommunications service area in the state within 3
12 years after the date the video service franchisee is issued a video service franchise
13 and to a number not less than 50 percent of such households within 5 years after such
14 date, except that the video service franchisee is not required to meet the 50 percent
15 requirement under this subdivision until 2 years after at least 15 percent of the
16 households with access to the video service franchisee's video service subscribe to
17 the service for 6 consecutive months. A video service franchisee's obligation to
18 provide access under this subdivision shall be distributed, as the video service
19 franchisee determines, within 3 designated market areas in the state and one
20 designated market area shall consist of any 1st class cities.

****NOTE: I don't understand how the exception in the 1st sentence works.

****NOTE: I don't understand what the last sentence is supposed to accomplish.
Also, the proposal has additional language regarding the last sentence, but some words
appear to be missing, so I checked the Illinois law itself, which provides: "The [video
service franchisee's] obligation to provide such access in the State shall be distributed,
as the [franchisee] determines, within three designated market areas, one in each of the

northeastern, central and southwestern portions of the [franchisee's] telecommunications service area in the State. The designated market area for the northeastern portion shall consist of two separate and distinct reporting areas: i) a city with more than 1,000,000 inhabitants, and ii) all other local units of government on a combined basis within such designated market area in which it offers video service." I'm not sure how you want to incorporate the foregoing requirements (which may be unique to Illinois) into Wisconsin law. Please advise.

1 2. If any state in which the video service franchisee or one of its affiliates
2 provides or seeks to provide cable or video service adopts a law requiring the video
3 service franchisee or an affiliate to provide access to cable or video service to more
4 than 35 percent of the households in the video service franchisee's or affiliate's
5 service area in that state within 3 years after the video service franchisee or affiliate
6 is allowed to provide cable or video service in that state, the video service franchisee
7 shall provide service in this state to the same percentage of households within 3 years
8 of adoption of such law in that state.

****NOTE: The proposal refers to another state requiring a video service franchisee or affiliate to "offer service." I changed "offer" service to "provide access" to service.

9 3. If any state in which the video service franchisee or one of its affiliates
10 provides or seeks to provide cable or video service adopts a law requiring the video
11 service franchisee or an affiliate to provide access to cable or video service to more
12 than 35 percent of its households if less than 15 percent of the households with access
13 to the video service franchisee's service subscribe to the service for 6 consecutive
14 months, then as a precondition to further build-out, the video service franchisee
15 shall be subject to the same percentage of service subscription in meeting its
16 obligation to provide service to 50 percent of the households in this state.

****NOTE: I'm not sure what the above means. For example, what does the reference to "precondition to further build-out" mean?

****NOTE: I changed references to "offering" service to "providing access" to service.

17 4. Within 3 years after receiving a video service franchise, at least 30 percent
18 of the total households with access to the video service franchisee's cable or video

1 service shall be low-income households. Within each designated market area
2 determined under subd. 1., the video service franchisee's obligation to provide access
3 of its cable or video service to low-income households shall be measured by each
4 exchange in which the video service franchisee chooses to provide cable or video
5 service. The video service franchisee is under no obligation to serve or provide access
6 to an entire exchange, except that, in addition to the statewide obligation to provide
7 low-income access under this subsection, in each exchange in which the video service
8 franchisee chooses to provide cable or video service, the video service franchisee shall
9 provide access to a percentage of low-income households that is at least equal to the
10 percentage of the total low-income households within that exchange.

****NOTE: I don't know what the above is supposed to do, so I don't know if it accomplishes its purpose. For example, under sub. (4) (b) 1., it appears that defining a video service area in terms of an exchange is an option. However, the above appears to require exchanges.

****NOTE: The above (and other requirements) should be clarified so that they are not triggered every 10 years when a video service franchise expires and the video service franchisee obtains a new video service franchise.

11 5. Provide access to broadband service to 90 percent of the households in the
12 video service franchisee's telecommunications service area by December 31, 2008, or
13 pay to the commission, within 30 days of December 31, 2008, a sum of \$15,000,000.
14 The commission shall deposit any payment made under this subdivision in the
15 universal service fund.

16 (d) *Access; 250,000 to 500,000 lines.* If a video service franchisee uses
17 telecommunications facilities to provide cable or video service and has, on the
18 effective date of this paragraph [revisor inserts date], more than 250,000, but no
19 more than 500,000, telecommunications access lines in this state, the video service
20 franchisee shall do all of the following:

1 1. Provide access to its cable or video service to a number of households equal
2 to at least 25 percent of its telecommunications access lines in this state within 3
3 years after the date the video service franchisee receives a video service franchise
4 and to a number not less than 35 percent of such households within 5 years after the
5 date the video service franchisee receives a video service franchise, except that the
6 video service franchisee is not required to meet the 35 percent requirement under
7 this subdivision until 2 years after at least 15 percent of the households with access
8 to the video service franchisee's video service subscribe to the service for 6
9 consecutive months. The video service franchisee's obligation to provide such access
10 in the state shall be distributed, as the video service franchisee determines, within
11 3 different designated market areas.

 ***NOTE: I don't understand how the exception in the 1st sentence is supposed to
work. Also, what does the last sentence mean?

12 2. Within 3 years after receiving a video service franchise, at least 30 percent
13 of the total households with access to the video service franchisee's cable or video
14 service shall be low-income households. Within each designated market area
15 determined under subd. 1., the video service franchisee's obligation to offer service
16 to low-income households shall be measured by each exchange in which the video
17 service franchisee chooses to provide cable or video service. The video service
18 franchisee is under no obligation to serve or provide access to an entire exchange,
19 except that, in addition to the statewide obligation to provide low-income access
20 under this subsection, in each exchange in which the video service franchisee chooses
21 to provide cable or video service, the video service franchisee shall provide access to
22 a percentage of low-income households that is at least equal to the percentage of the
23 total low-income households within that exchange.

****NOTE: As noted above, the reference to exchanges is confusing.

1 (e) *Access; others.* A video service franchisee, other than a video service
2 franchise specified in par. (c) (intro.) or (d) (intro.), shall do all of the following:

3 1. Provide access to one or more exchanges or to municipalities and shall
4 provide access to their cable or video service to a number of households equal to 35
5 percent of the households in the exchange or municipality within 3 years after
6 receiving a video service franchise and to a number not less than 50 percent of such
7 households within 5 years after receiving a video service franchise, except that if the
8 video service franchisee is an incumbent cable operator or a successor-in-interest
9 to an incumbent cable operator, the video service franchisee shall provide access to
10 cable or video services within the jurisdiction of a municipality at the same levels
11 required by the municipality on the effective date of this subdivision [revisor
12 inserts date].

****NOTE: The above is confusing and I'm not sure what is required.

13 2. Within 3 years after receiving a video service franchise, at least 30 percent
14 of the total households with access to the video service franchisee's cable or video
15 service shall be low-income households. Within each designated exchange or
16 municipality specified in subd. 1., the video service franchisee's obligation to offer
17 service to low-income households shall be measured by each exchange or
18 municipality in which the video service franchisee chooses to provide cable or video
19 service. Except as provided in subd. 1., the video service franchisee is under no
20 obligation to serve or provide access to an entire exchange or municipality, except
21 that, in addition to the statewide obligation to provide low-income access provided
22 by this subsection, in each exchange or municipality in which the video service
23 franchisee chooses to provide cable or video service, the video service franchisee shall

1 provide access to a percentage of low-income households that is at least equal to the
2 percentage of the total low-income households within that exchange or municipality.

***NOTE: The above is confusing and I'm not sure what is required. The last sentence uses "except" twice and seems particularly confusing.

3 (f) *Access; mitigating factors.* 1. In any investigation or complaint regarding
4 an allegation that a video service franchisee has failed to comply with this
5 subsection, the following factors may be considered in justification or mitigation or
6 as justification for an extension of time to comply with this subsection:

***NOTE: Justification or mitigation for what purpose? What is the consequence? Who approves the justification or mitigation? A court or DOJ? Are the factors a defense to liability for violation? If so, why not limit to a court proceeding?

7 a. The inability to obtain access to public and private rights-of-way under
8 reasonable terms and conditions.

9 b. Barriers to competition arising from existing exclusive service arrangements
10 in developments or buildings.

11 c. The inability to obtain access to developments or buildings using reasonable
12 technical solutions under commercially reasonable terms and conditions.

13 d. Natural disasters.

14 e. Other factors beyond the control of the video service franchisee.

15 2. If a video service franchisee relies on a factor or factors specified in subd. 1.
16 in response to an investigation or complaint specified in subd. 1. (intro.), the video
17 service franchisee shall identify the factor or factors, the substantial effort the video
18 service franchisee has taken to comply with this subsection, and the number of days
19 the video service franchisee has been delayed or the requirements the video service
20 franchisee cannot perform as a consequence of the factor or factors.

***NOTE: To whom does a video service franchisee identify the required items? What is the effect of a successful identification?

1 3. The department of justice or a court may consider the factors specified in
2 subd. 1. in determining whether a video service franchisee has violated this
3 subsection.

 ****NOTE: The above is confusing. Either a video franchisee violates the subsection,
 or it doesn't. If a factor applies, the factor does not negate the fact that a violation
 occurred. Depending on your intent, the above should be rephrased.

4 (g) *Video service franchisee reports.* A video service franchisee shall, no later
5 than April 1, 2009, and annually no later than April 1 thereafter, report to the
6 commission for each of the service areas as described in pars. (c), (d), and (e) in which
7 the video service franchisee provides access to its video service in the state, all of the
8 following information:

 ****NOTE: The reference to service areas should be clarified.

9 1. The number of households in the video service franchisee's
10 telecommunications service area within each designated market area determined
11 under par. (c) 1. or (d) 1. or exchange or municipality as described in par. (e) in which
12 it offers video service.

 ****NOTE: The reference to market areas, exchanges, and municipalities should be
 clarified.

13 2. The number of households in the video service franchisee's
14 telecommunications service area within each designated market area determined
15 under par. (c) 1. or (d) 1. or exchange or municipality as described in par. (e) that are
16 offered access to video service by the video service franchisee.

 ****NOTE: The reference to market areas, exchanges, and municipalities should be
 clarified.

17 3. The number of households in the video service franchisee's
18 telecommunications service area in the state.

 ****NOTE: Not all video service franchisees will have a "telecommunications service
 area." Therefore, the above should be clarified.

1 4. The number of households in the video service franchisee's
2 telecommunications service area in the state that are offered access to video service
3 by the video service franchisee.

****NOTE: Same issue as above.

4 5. The number of low-income households in the video service franchisee's
5 telecommunications service area within each designated market area determined
6 under par. (c) 1. or (d) 1., as further identified in terms of exchanges, or exchange or
7 municipality as described in par. (e), in which it offers video service

****NOTE: The above should be clarified.

8 6. The number of low-income households in the video service franchisee's
9 telecommunications service area within each designated market area determined
10 under par. (c) 1. or (d) 1., as further identified in terms of exchanges, or exchange or
11 municipality as described in par. (e) in the state, that are offered access to video
12 service by the video service franchisee.

****NOTE: Same issues as above.

13 7. The number of low-income households in the video service franchisee's
14 telecommunications service area in the state.

****NOTE: Same issue regarding telecommunications service area as noted above.

15 8. The number of low-income households in the video service franchisee's
16 telecommunications service area in the state that are offered access to video service
17 by the video service franchisee.

****NOTE: Same issue noted above.

18 (h) *Commission reports.* The commission, within 30 days of receiving the first
19 report from video service franchisees under par. (g), and annually no later than July
20 1 thereafter, shall submit to the appropriate standing committees of the legislature
21 under s. 13.172 (3) a report that includes, based on year-end data, the information

submitted by video service franchisees pursuant to par. (g). The commission shall make this report available to any member of the public or any municipality upon request, except as provided under sub. (4) (d), and except that no individually identifiable customer information shall be subject to public disclosure.

(10) ENFORCEMENT. (a) The ~~department of justice~~ ^{Commission} may investigate possible violations of this section by video service franchisees. If the ~~department of justice~~ ^{Commission} determines that there is a reason to believe that a video service franchisee has violated or is about to violate this section, the ~~department of justice~~ ^{Commission} may bring an action against the video service franchisee to obtain, except as provided in sub. (5) (h), injunctive relief and civil penalties for any act, policy, or practice by the video service franchisee that violates this section. ^{INSEAT 42-6} ^{INSEAT 42-8} ^{INSEAT 42-11}

***NOTE: The proposal also contains the following: "The department of justice is responsible for administering and ensuring compliance with this section, except that nothing in this section shall deprive municipalities of the right to enforce applicable rights and obligations." The language regarding DOJ is not necessary. As for municipalities, they don't enforce s. 66.0420, so why mention them?

***NOTE: The proposal also includes language about DOJ's subpoena power. I don't think that language is necessary because DOJ's general subpoena power is expressed under current law in s. 885.01.

***NOTE: The proposal also includes the following language, which appears to be unique to Illinois law, so I did not include it: "If a court orders a holder to make payments to the Attorney General and the payments are to be used for the operations of the Office of the Attorney General or if a holder agrees to make payments to the Attorney General for the operations of the Office of the Attorney General as part of an Assurance of Voluntary Compliance, then the moneys paid under any of the conditions described in this subsection shall be deposited into the Attorney General Court Ordered and Voluntary Compliance Payment Projects Fund. Moneys in the Fund shall be used, subject to appropriation, for the performance of any function pertaining to the exercise of the duties to the Attorney General including, but not limited to, enforcement of any law of this State and conducting public education programs; however, any moneys in the Fund that are required by the court to be used for a particular purpose shall be used for that purpose."

(b) A video service franchisee's video service franchise ~~may be suspended or~~ ^{or \$100,209} revoked if the video service franchisee fails to comply with this section after a reasonable time to achieve compliance has passed.

***NOTE: Does the above mean that DOJ, rather than the PSC, can suspend or revoke a franchise? What procedure should apply? Is court action necessary? Also, who

The Commission may suspend or revoke

determines what constitutes a reasonable time to achieve compliance? Can a video service franchisee litigate that issue?

(11) FORFEITURES. (a) Subject to par. (b):

1. A video service franchisee that violates this section or any provision of its video service franchise shall forfeit no more than \$30,000 for each violation, or .00825 percent of the video service franchisee's ^{statewide} gross revenue, as calculated under sub. (7) (a), whichever is greater. Each violation of this section is a separate violation, except that if the same act or omission violates more than one provision of this section, only one forfeiture may be imposed for such act or omission. Each day that a violation continues is a separate violation, except that, if the violation was not intentional, did not create substantial risk to the safety of the video service franchisee's employees or customers or the public, and was not intended to cause economic benefits to accrue to the video service franchisee, the forfeiture for a continuing violation may not exceed \$500,000 per year.

****NOTE: How does a video service franchisee violate a provision of the video service franchise?

2. A video service franchisee that violates sub. (9) shall, in addition to the forfeiture under subd. 1., forfeit an amount not exceeding 3 percent of the video service franchisee's total monthly ^{statewide} gross revenue, as calculated under sub. (7) (a), for each month from the date of the violation until the date that compliance is achieved.

****NOTE: Although the proposal refers to a fine instead of a forfeiture, other provisions of the proposal lead me to conclude that the above should refer to a forfeiture. The difference is that a fine is a criminal matter with a higher standard of proof than a forfeiture, which is a civil matter.

****NOTE: The proposal also includes the following, which I do not think is necessary: "Nothing in this section shall limit or affect the powers of the Attorney General to enforce the current consumer protection law."

****NOTE: The proposal also includes the following: "Except as otherwise provided in this section, this section shall be enforced only by a court of competent jurisdiction." I'm not sure what the foregoing is supposed to accomplish. Perhaps the intent is to prohibit the PSC from taking administrative action? If so, such a prohibition should be stated more clearly. Otherwise, I don't think the foregoing is necessary.

INSERT 44-8

INSERT 44-4

(b) A court may impose a forfeiture under par. (a) only if the department of justice has given the video service franchisee notice of the violation and the opportunity to remedy the violation within 30 days after receipt of the notice and the video service franchisee has failed to remedy the violation.

SECTION 8. 100.209 of the statutes is repealed and recreated to read:

100.209 ~~Cable and~~ video service standards; privacy protection. (1)

DEFINITIONS. In this section:

***NOTE: I still need to determine whether any definitions, in addition to the definitions below, are necessary for this section.

(a) "Basic ~~cable or~~ video service" has the meaning given in s. 66.0420 (2) (b).

(b) "~~Cable or~~ video provider" means a person that provides cable or video service, except that "cable or video provider" does not include a landlord whose provision of basic ~~cable or~~ video service is limited to providing only broadcast video programming to a single-family home or other residential dwelling consisting of 4 units or less.

***NOTE: The proposal includes the following under the above definition: "a master antenna television, satellite master antenna television, direct broadcast satellite, multipoint distribution services, and other providers of video programming, whatever their technology." However, doesn't the above definition capture everybody? Also, the reference to "video programming" is odd because the term isn't defined.

***NOTE: Why is the landlord exception limited to 4 units or less? Is it okay for a landlord that provides service to 5 units to be subject to this section?

***NOTE: The proposal also defines "franchise," which has the meaning given under 47 USC 522 (9), but that term is only used in the following provision, which I don't think is necessary: "This [section] applies to all cable and video providers in the State, including but not limited to those operating under a local franchise as that term is used in 47 USC 522 (9), and those operating under a state-issued authorization pursuant to this [section]." The foregoing provision is not necessary because, as drafted, it is obvious that this section applies to the entities mentioned. Therefore, the definition of "franchise" is not necessary.

***NOTE: Should "broadcast video programming" be defined? Note that "video programming" is defined in s. 66.0420 (2) (u).

(c) "Cable or video service" means "cable service" as defined in s. 66.0420 (2) (f) or "video service" as defined in s. 66.0420 (2) (v).

INSERT 45-1

****NOTE: I think a definition for the above is necessary, but I'm not sure whether the above definition works, as use of public rights-of-way is a component of the definition of "video service." Perhaps that component can be removed from the definition. Please advise.

1 (d) "Municipality" means a city, village, or town.

****NOTE: The proposal defines "local unit of government" to include the above, plus a county. I don't think it's necessary to include counties. Is that okay?

2 (e) "Normal business hours" means, with respect to a business, those hours
3 during which most similar businesses in the geographic area of a municipality are
4 open to serve customers. In all cases, "normal business hours" must include some
5 evening hours at least one night per week or some weekend hours.

****NOTE: The 2nd sentence is actually a substantive requirement that should be moved elsewhere.

****NOTE: Why is it necessary to refer to "the geographic area" of a municipality? What is a geographic area and how is it determined?

6 (f) "Normal operating conditions" means, with respect to a cable or video
7 provider, those service conditions that are within the control of the cable or video
8 provider. "Normal operating conditions" includes special promotions; pay-per-view
9 events; rate increases; regular, peak, or seasonal demand periods; and maintenance
10 or upgrade of a video service network. "Normal operating conditions" does not
11 include natural disasters, civil disturbances, power outages, telephone network
12 outages, or severe or unusual weather conditions.

****NOTE: Regarding the 2nd sentence, is "condition" the right word to describe the specified examples that are included in the definition?

13 (g) "Service interruption" means the loss of picture or sound on one or more
14 cable or video service or on one or more cable or video channels.

****NOTE: The above is confusing and should be revised.

15 (h) "Service line drop" means the point of connection between a premises and
16 the cable or video network that enables the premises to receive cable or video service.

17 (i) "Video service network" has the meaning given in s. 66.0420 (2) (z).

INSERT 45-10

facilities of a cable or video provider

1 (2) APPLICABILITY. Notwithstanding sub. (1) (b), a ~~cable or video~~ ^{programming} provider that
2 provides ~~cable or video~~ service through a master antenna television, satellite master
3 antenna television, direct broadcast satellite, or multipoint distribution service is
4 subject to this section only to the extent permitted by federal law.

~~****NOTE: What does federal law say regarding the above entities? Are they subject to this section?~~

5 (3) GENERAL CUSTOMER SERVICE STANDARDS. (a) *In general.* ~~Cable or video~~ ^{programming}
6 providers shall establish general standards related to customer service, including
7 relating to all of the following:

- 8 1. Installation, disconnection, service, and repair obligations.
- 9 2. Appointment hours and employee identification requirements.
- 10 3. Customer service telephone numbers and hours.
- 11 4. Procedures for billing, charges, deposits, refunds, and credits.
- 12 5. Procedures for termination of service.
- 13 6. Notice of deletion of programming service.
- 14 7. Changes related to transmission of programming.
- 15 8. Changes or increases in rates.
- 16 9. The use and availability of parental control or lock-out devices.
- 17 10. If applicable, the use and availability of an A/B switch.

~~****NOTE: What's an A/B switch? Should it be defined?~~

18 11. Complaint and bill dispute resolution procedures.

19 12. Rights and remedies available to consumers if the ~~cable or video~~ ^{programming} provider
20 does not materially meet their customer service standards.

21 13. Special services for customers with visual, hearing, or mobility disabilities.

22 (b) *Public availability.* A ~~cable or video~~ ^{programming} provider shall make available to the
23 public, and display clearly and conspicuously on its Internet Web site, the ~~cable or~~ ^{programming}

1 video ^{programming} providers' rates for each level of service, rules, and regulations, and the
2 standards established under par. (a). If a promotional price or a price for a specified
3 period of time is offered, the ~~cable~~ ^{programming} or video provider shall clearly and conspicuously
4 display the promotional price or price for the specified period of time together with
5 the price that applies at the end of the promotional period or specified period of time.
6 ~~The cable or video provider shall provide this information upon request.~~

****NOTE: I'm not sure what "this information" is supposed to refer to in the last sentence. Is it all the information described in the paragraph? Isn't that redundant, given that the 1st sentence requires the information be made available to the public?

7 (c) ^{programming} Notice. A ~~cable~~ or video provider shall provide notice concerning its general
8 customer service standards to all customers. The notice shall be offered when service
9 is first activated and annually thereafter. The information in the notice shall include
10 all of the standards established under par. (a) and all of the following:

11 1. A listing of services offered by the ~~cable~~ ^{programming} or video provider, which clearly
12 describes programming for all services and all levels of service.

13 2. The rates for all services and levels of service.

14 3. Telephone numbers through which customers may subscribe to, change, or
15 terminate service, request customer service, or seek general or billing information.

16 4. Instructions on the use of the ~~cable~~ or video services.

17 5. A description of rights and remedies that the ~~cable~~ or video ^{programming} provider shall
18 make available to their customers if the ~~cable~~ or video provider does not materially
19 meet the general customer service standards described in this paragraph.

20 (4) GENERAL CUSTOMER SERVICE OBLIGATIONS. (a) A ~~cable~~ or video provider shall
21 render reasonably efficient service, promptly make repairs, and interrupt service
22 only as necessary and for good cause, during periods of minimum use of the system
23 and for no more than 24 hours.

programming

(b) All service representatives or any other person who contacts customers or potential customers on behalf of a ~~cable~~ or video provider shall have a visible identification card with their name and photograph and shall orally identify themselves upon first contact with a customer. Customer service representatives shall orally identify themselves to callers immediately following the greeting during each telephone contact with the public. *that is located*

(c) A ~~cable~~ or video provider shall do one of the following:

1. Maintain a customer service facility within the boundaries of a municipality staffed by customer service representatives that have the capacity to accept payment; adjust bills; respond to repair, installation, reconnection, disconnection, or other service calls; and distribute or receive converter boxes, remote control units, digital stereo units, or other equipment related to the provision of ~~cable~~ or video service. *NOTE: 48-8*

****NOTE: The above applies to which municipality? Each municipality in which service is provided?

2. Provide customers with bill payment facilities through retail, financial, or other commercial institutions located within the boundaries of a municipality.

***NOTE: Same question as above: which municipality?

3. Provide an address, toll-free telephone number, or electronic address to accept bill payments and correspondence, and provide secure collection boxes that receive bill payments and returned equipment and that provide a printed receipt when items are deposited.

4. Provide an address, toll-free telephone number, or electronic address to accept bill payments and correspondence, and provide a method for customers to return equipment to the ~~cable~~ or video provider at no cost to the customer.

programming

(5) CUSTOMER CONTACTS. In each contact with a customer, the service representatives of a ~~cable or~~ video provider, or any other person who contacts customers or potential customers on behalf of the ~~cable or~~ video provider, shall state the estimated cost of the service, repair, or installation orally prior to delivery of the service or before any work is performed, and shall provide the customer with an oral statement of the total charges before terminating the telephone call or other contact in which a service is ordered, whether in person or over the Internet, and shall provide a written statement of the total charges before leaving the location at which the work was performed. If the cost of service is a promotional price or is for a limited period of time, the cost of service at the end of the promotion or limited period of time shall be disclosed.

(6) NOTICES. A ~~cable or~~ video provider shall provide customers a minimum of 30 days' written notice before increasing rates or eliminating transmission of programming and shall submit the notice to the municipality in advance of distribution to customers, except that if the elimination of transmission of programming is outside the control of the ~~cable or~~ video provider, the ~~cable or~~ video provider shall use reasonable efforts to provide as much notice as possible and any rate decrease related to the elimination of transmission of programming shall be applied ^{as of} the date of the change. *elimination of the transmission of programming*

***NOTE. Is it clearer to say the rate decrease shall be applied "as of" the date of the change?

(7) RECEPTION. A ~~cable or~~ video provider shall provide clear visual and audio reception that meets or exceeds applicable federal communications commission technical standards. If a customer experiences poor video or audio reception due to

1 the equipment of the ~~cable~~ or video provider, the ~~cable~~ or video provider shall
2 promptly repair the problem at its own expense.

3 (8) **BILLS, PAYMENT AND TERMINATION.** (a) A ~~cable~~ or video provider shall render
4 monthly bills that are clear, accurate, and understandable.

5 (b) Every residential customer who pays bills directly to a ~~cable~~ or video
6 provider shall have at least 28 days from the date of the bill to pay the listed charges.

7 (c) A ~~cable~~ or video provider shall promptly post customer payments. If
8 payment is sent by United States mail, payment is considered paid on the date it is
9 postmarked.

10 (d) A ~~cable~~ or video provider may not terminate residential service for
11 nonpayment of a bill unless the ~~cable~~ or video provider furnishes notice of the
12 delinquency and impending termination at least 21 days prior to the proposed
13 termination. Notice of proposed termination shall be mailed, ~~postage prepaid~~, to the
14 customer to whom service is billed. Notice of proposed termination shall not be
15 mailed until the 29th day after the date of the bill for services. Notice of delinquency
16 and impending termination may be part of a billing statement only if the notice is
17 presented in a different color than the bill and is designed to be conspicuous. A ~~cable~~
18 or video provider may not assess a late fee prior to the 29th day after the date of the
19 bill for service.

****NOTE: Shouldn't the requirement for mailing a bill postage prepaid be
elaborated? Is the idea that the cable or video provider must provide an envelope that
is postage prepaid that the customer may use to remit the bill?

20 (e) A ~~cable~~ or video provider shall include with every notice of impending
21 termination the name and address of the customer; the amount of delinquency; the
22 date on which payment is required to avoid termination; and the telephone number
23 of the ~~cable~~ or video provider's service representative to make payment

programming

1 arrangements and to provide additional information about any charges for failure
2 to return equipment and for reconnection. No customer may be charged a fee for
3 termination or disconnection of service, regardless of whether the customer or the
4 cable or video provider initiated termination or disconnection.

5 (f) A cable or video provider may terminate service only on those days when the
6 customer is able to reach, in person or by telephone, a service representative of the
7 cable or video provider.

8 (g) Any service terminated by a cable or video provider without good cause shall
9 be restored without any reconnection fee, charge, or penalty. Good cause for
10 termination includes failure to pay a bill by the date specified in the notice of
11 impending termination, payment by check for which there are insufficient funds,
12 theft of service, abuse of equipment or personnel, or other similar subscriber actions. customer

13 (h) A cable or video provider shall cease charging a customer for any or all
14 services within one business day after it receives a request to immediately terminate
15 service or on the day requested by the customer if such a date is at least 5 days from
16 the date requested by the customer. Nothing in this paragraph shall prohibit a cable
17 or video provider from billing for charges that the customer incurs prior to the date
18 of termination. A cable or video provider shall issue a credit, a refund, or return a
19 deposit within 10 business days after the close of the customer's billing cycle
20 following the request for termination or the return of equipment, if any, whichever
21 is later.

programming

22 (i) A cable or video provider shall allow its customers or subscribers to
23 disconnect their service at any time within the first 60 days after subscribing to or
24 upgrading the service. Within such 60-day period, a cable or video provider shall not
25 charge or impose any fees or penalties on the customer or subscriber for

programming

1 disconnecting service, including any installation charge or early termination charge,
2 except that a ~~cable~~ or video provider may impose a charge or fee to offset any rebates
3 or credits received by the customer or subscriber, and may impose monthly service
4 or maintenance charges, including pay-per-view and premium services charges,
5 during such 60-day period.

****NOTE: The proposal refers to customer or subscriber in the 1st sentence. If there is no difference in meaning, why not use only one term throughout the substitute amendment?

6 (j) A ~~cable~~ or video provider shall guarantee customer satisfaction for new or
7 upgraded service and the customer shall receive a pro rata credit in an amount equal
8 to the pro rata charge for the remaining days of service being disconnected or
9 replaced upon the customers request if the customer is dissatisfied with the service
10 and requests to discontinue the service within the first 60 days after subscribing to
11 the upgraded service.

programming

12 (9) RESPONSE TO CUSTOMER INQUIRIES. (a) A ~~cable~~ or video provider shall
13 maintain a toll-free telephone access line that is available to customers 24 hours a
14 day, 7 days a week, to accept calls regarding installation, termination, service, and
15 complaints. Trained, knowledgeable, and qualified service representatives of a ~~cable~~
16 or video provider shall be available to respond to customer telephone inquiries
17 during normal business hours. Customer service representatives shall be able to
18 provide credits, waive fees, schedule appointments, and change billing cycles. Any
19 difficulties that cannot be resolved by the customer service representatives shall be
20 referred to a supervisor who shall make best efforts to resolve the issue immediately.
21 If the supervisor does not resolve the issue to the customer's satisfaction, the
22 customer shall be informed of the ~~cable~~ or video provider's complaint procedures and
23 procedures for billing dispute resolutions and given a description of the rights and

1 remedies available to customers to enforce the terms of this section, including the
2 customer's rights to have the complaint reviewed by the municipality to request
3 mediation, and to review in a court of competent jurisdiction.

***NOTE: In the last sentence, which municipality? Also, does the last sentence
create the right of a municipality to review the complaint, or is that stated elsewhere?
If it is not stated elsewhere, it should be stated more clearly here.

4 (b) After normal business hours, the toll-free telephone access line specified
5 in par. (a) may be answered by a service or an automated response system, including
6 an answering machine. Inquiries received by telephone or electronic mail after
7 normal business hours shall be responded to by a trained service representative on
8 the next business day. A cable or video provider shall respond to a written billing
9 inquiry within 10 days of receipt of the inquiry.

***NOTE: Regarding references to trained service representatives throughout the
substitute amendment, what constitutes training?

10 (c) A cable or video provider shall provide customers seeking nonstandard
11 installations with a total installation cost estimate and an estimated date of
12 completion. The actual charge to the customer may not exceed 110 percent of the
13 estimated cost without the written consent of the customer.

14 (d) If a cable or video provider receives notice that an unsafe condition exists
15 with respect to its equipment, the cable or video provider shall investigate such
16 condition immediately, and shall take such measures as are necessary to remove or
17 eliminate the unsafe condition. The cable or video provider shall promptly
18 inform the municipality promptly but no later than 2 hours after it receives notification of an
19 unsafe condition that it has not remedied.

***NOTE: Which municipality?

20 (e) 1. Except as provided in subd. 2., under normal operating conditions,
21 telephone answer time by a cable or video provider's customer representative,

INSERT
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Programming

promptly

30
1 including wait time, may not exceed ~~130~~ seconds when the connection is made.

2 Except as provided in subd. 2., if the call needs to be transferred, transfer time shall
3 not exceed ~~130~~ seconds. 30

4 2. The standards under subd. 1. shall be met no less than 90 percent of the time
5 under normal operating conditions, measured on a quarterly basis.

6 (f) Under normal operating conditions, a ~~cable or video~~ ^{programming} provider's customers
7 may not receive a busy signal more than 3 percent of the time.

***NOTE: I rephrased the above. However, how is compliance measured? Three percent of what time?

8 (10) INSTALLATIONS, OUTAGES, AND SERVICE CALLS. Under normal operating
9 conditions, a ~~cable or video~~ provider shall meet each of the following standards no
10 less than 95 percent of the time measured on a quarterly basis:

***NOTE: Ninety-five percent of what time?

11 (a) Standard installations shall be performed within 7 business days after an
12 order has been placed. For purposes of this paragraph, "standard installations"
13 means those installations that are located no more than 125 feet away from the cable
14 or video provider's existing distribution system.

15 (b) Excluding conditions beyond the control of the cable or video provider, the
16 ~~cable or video~~ ^{do all of the following: (9) 1.} provider shall begin working on service interruptions promptly and in
17 no event later than 24 hours after the service interruption is reported by the
18 customer or otherwise becomes known to the cable or video providers. A cable or
19 ~~video~~ ^{(9) 2.} provider shall begin actions to correct other service problems the next business
20 day after notification of the service problem and correct the problem within 48 hours
21 after the service interruption is reported by the customer. ^{(9) 3.}

***NOTE: The proposal has quotation marks around "service interruptions." I'm not sure why.

INSERT
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INSERT
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programming

****NOTE: The 2nd sentence of the proposal repeated the 95 percent quarterly compliance requirement that is stated in sub. (10) (intro.). It's not necessary to repeat that requirement. However, because it wasn't repeated for the 1st sentence, I want to make sure that it should apply to the 1st sentence.

1 (c) A ~~cable~~ or video provider shall schedule appointments with customers for
2 installations, service calls, and other installation activities for a specific time, or
3 within a time block that does not exceed 4 hours, during evening, weekend, or normal
4 business hours, except that a ~~cable~~ or video provider may otherwise schedule such
5 appointments as specified by the customer for the customer's convenience.

****NOTE: I did not use the term "appointment window" because I don't think it helps clarify the meaning of what is required above.

****NOTE: "Evening, weekend, and normal business hours" covers every hour of the week. Why is the phrase used?

****NOTE: I rephrased the exception. Is it okay?

6 (d) A ~~cable~~ or video provider may not cancel an appointment with a customer
7 after 5:00 p.m. on the business day prior to the scheduled appointment. If a ~~cable~~ or
8 video provider's representative is running late for an appointment with a customer
9 and is not be able to keep the appointment as scheduled, the ~~cable~~ or video provider
10 shall contact the customer and, as necessary, reschedule the appointment at a time
11 that is convenient for the customer, even if the rescheduled appointment is not
12 within normal business hours.

13 (11) PUBLIC BENEFIT OBLIGATION. (a) In this subsection, "eligible building"
14 means a building used by a municipality for governmental purposes; a public library;
15 or a public primary or secondary school, including a charter school.

****NOTE: The proposal refers to a building owned or leased by a municipality. See my change above. Is my language okay?

****NOTE: Regarding schools, I assume you want to include charter schools. Also, as drafted, administrative buildings used by school boards are not eligible buildings. Is that okay?

16 (b) Except as otherwise provided in this subsection, a cable or video provider
17 shall provide a free service line drop and free basic cable or video service to all current

1.

(9) 2.
1 and future eligible buildings within the cable or video provider's footprint. Such
2 service shall be used in a manner consistent with the government purpose of the
3 eligible building and shall not be resold. governmental

Provided under Subd. 2.
****NOTE: Which cable or video providers does this apply to? The Illinois law says that it applies to those that offer service pursuant to "the Cable and Video Competition Law of 2007, the Illinois Municipal Code, or the Counties Code." Can I assume that it should apply only to entities that are issued a video service franchise, or that continue their municipally granted franchises? If so, I will make appropriate changes to the above.

****NOTE: What is a "footprint"? "Video service area" can't be used here, as this section could apply to persons other than video service franchisees, correct?

****NOTE: What does it mean to say that the service will be used consistent with the public purpose?

4 (c) Paragraph (b) only applies to those cable or video providers whose cable or
5 video service systems pass eligible buildings and whose cable or video service is
6 generally available to residential subscribers in the municipality in which the
7 eligible building is located. Customers

****NOTE: Is the meaning of "pass" clear?

8 (d) The burden of providing service required under par. (b) at an eligible
9 building shall be shared by all cable and video providers whose systems pass the
10 eligible buildings and shall be shared in an equitable and competitively neutral
11 manner. The cable or video providers operating in a municipality shall determine
12 amongst themselves who will provide the service to an eligible building required
13 under par. (b). If the cable or video providers are unable to reach agreement on the
14 determination, the municipality in which the eligible building is located shall
15 determine which cable or video providers must serve the eligible building. A
16 municipality may not require duplicative installations by more than one cable or
17 video provider at an eligible building.

****NOTE: In the proposal, the prohibition on duplicative installations has a more general application, but, in my opinion, is more vaguely stated. Is my last sentence okay?

1 (e) A municipality shall bear the costs of any inside wiring, or video equipment
2 costs, that are incurred in providing service required under par. (b) at an eligible
3 building, if such costs are not ordinarily provided as part of a cable or video provider's
4 basic offering.

***NOTE: What is a "basic offering"?

5 (12) REPORTS. (a) After offering cable or video service for one year, a cable or
6 video provider shall make an annual report to the department, the municipality, and
7 the department of justice regarding its compliance with this section. The report shall
8 also identify the number of complaints the cable or video provider received during
9 the prior year in the state and specify the number of such complaints related to each
10 of the following:

***NOTE: In addition to the information about complaints, I'm not sure what else
should be included in the report. The proposal says that a cable or video provider shall
report that "it is meeting" the requirements of the section, which I rephrased. What
exactly does the report have to cover, in addition to the information about complaints?

***NOTE: How does the above apply to persons already offering cable or video
service of the effective date of the substitute amendment?

- 11 1. Billing, charges, refunds, or credits.
- 12 2. Installation or termination of service.
- 13 3. Quality of service and repair.
- 14 4. Programming.
- 15 5. Other complaints not specified in subds. 1. to 4.

16 (b) A cable or video provider shall provide, upon request by a municipality in
17 which service is offered or by the department of justice, an annual public report that
18 includes performance data regarding compliance with subs. (9) (e) and (f) and (10)
19 (a) and (b). The performance data shall be disaggregated for each requesting
20 municipality or exchange in which the cable or video provider has customers.

***NOTE: The proposal is confusing regarding when the above reporting
requirement applies. The proposal says "thereafter," which somehow refers back to the

INSERT 57-16

annual report required under par. (a). However, I'm not sure what "thereafter" is supposed to accomplish. Also, is the report only required if a municipality or DOJ request it? Or should it be submitted to DOJ, regardless of whether DOJ requests it? What about DATCP? And if the report is only required when requested, how can it be an annual report?

****NOTE: The proposal calls the report a "public" report. Should the above require DOJ or a municipality to make the report available to the public?

****NOTE: The 2nd sentence is confusing. I don't know what it means. As for "requesting," that probably only refers to a municipality, but why does the above mention an exchange? And what if DOJ requests the report? The 2nd sentence doesn't apply?

(13) RATES; CHARGES; CONTRACTS. (a) To the extent consistent with federal law:

****NOTE: Why mention federal law?

1. A cable or video provider shall offer the lowest-cost basic cable or video service as a stand-alone service to residential customers at reasonable rates. A cable or video provider shall not require the subscription to any service other than the lowest-cost basic service or to any telecommunications or information service, as a condition of access to cable or video service, including programming offered on a per channel or per program basis. A cable or video provider shall not discriminate between subscribers to the lowest-cost basic service, subscribers to other cable or video services, and other subscribers with regard to the rates charged for cable or video programming offered on a per channel or per program basis.

2. A cable or video provider shall ensure that charges for changes in a subscriber's selection of services or equipment shall be based on the cost of such change and shall not exceed nominal amounts if the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method.

3. A cable or video provider shall have a rate structure for the provision of cable or video service that is uniform throughout the area within the boundaries of a municipality, except that a cable or video provider may provide bulk discounts to

1 multiple dwelling units or reasonable discounts to senior citizens or other
2 economically disadvantaged groups.

3 4. A cable or video provider may not charge a subscriber for any service or
4 equipment that the subscriber has not affirmatively requested by name. For
5 purposes of this subdivision, a subscriber's failure to refuse a cable or video
6 provider's proposal to provide service or equipment is not an affirmative request for
7 such service or equipment.

****NOTE: Regarding requesting equipment by name, does this mean the name
brand of the equipment, or the name of the equipment in general? Suppose a subscriber
wants a DVR box. Should the subscriber have to know the name brand?

8 (b) No contract or service offering cable or video services or any bundle
9 including such services may be for a term longer than one year. Any contract or
10 service offering with a term of service that contains an early termination fee shall
11 limit the early termination fee to not more than the amount of the discount reflected
12 in the price for cable or video services for the period during which the consumer
13 benefited from the discount.

****NOTE: Is the meaning of the 2nd sentence clear?

14 (14) IMPAIRED CUSTOMERS. A cable or video provider may not discriminate in the
15 provision of services for the hearing and visually impaired and shall comply with 47
16 USC 613. A cable or video provider shall deliver and pick up, or provide customers
17 with prepaid shipping and packaging for the return of, converters and other
18 necessary equipment at the home of customers with disabilities. A cable or video
19 provider shall provide free use of a converter or remote control unit to mobility
20 impaired customers.

****NOTE: Why is it necessary to require compliance with federal law?

INSERT
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programming

1 (15) OBSCENE OR INDECENT PROGRAMMING. (a) To the extent consistent with
2 federal law, a ~~cable or~~ video provider shall comply with 47 USC 532 (h) and (j). A ~~cable~~
3 ~~or~~ video provider may not exercise any editorial control over any ~~video~~ programming
4 provided pursuant to this section, or in any other way consider the content of such
5 programming, except that a ~~cable or~~ video provider may refuse to transmit any
6 leased access program or portion of a leased access program which contains
7 obscenity, indecency, or nudity and may consider such content to the minimum extent
8 necessary to establish a reasonable price for the commercial use of designated
9 channel capacity by a person that is not an affiliate of the ~~cable or~~ video provider.
10 A ~~cable or~~ video provider may enforce prospectively a written and published policy
11 of prohibiting programming that the ~~cable or~~ video provider reasonably believes
12 describes or depicts sexual or excretory activities or organs in a patently offensive
13 manner as measured by contemporary community standards.

****NOTE: In the 1st sentence, why is it necessary to: 1) require compliance with federal law; and 2) require compliance with federal law only to the extent consistent with federal law? Is the 2nd issue intended to cover the possibility that the federal statutes are unconstitutional?

****NOTE: In the 2nd sentence, what does "provided pursuant to this section" mean? What does "consider" mean? "Consider" in what context? Should "leased access program" be defined?

****NOTE: FYI 47 USC 532 (h) states: Cable service unprotected by Constitution. Any cable service offered pursuant to this section shall not be provided, or shall be provided subject to conditions, if such cable service in the judgment of the franchising authority or the cable operator is obscene, or is in conflict with community standards in that it is lewd, lascivious, filthy, or indecent or is otherwise unprotected by the Constitution of the United States. This subsection shall permit a cable operator to enforce prospectively a written and published policy of prohibiting programming that the cable operator reasonably believes describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards.

****NOTE: FYI 47 USC 532 (j) states: Single channel access to indecent programming.

(1) Within 120 days following the date of the enactment [enacted Oct. 5, 1992] of this subsection, the Commission shall promulgate regulations designed to limit the access of children to indecent programming, as defined by Commission regulations, and which cable operators have not voluntarily prohibited under subsection (h) by--

(A) requiring cable operators to place on a single channel all indecent programs, as identified by program providers, intended for carriage on channels designated for

INSERT 61-2

commercial use under this section;

(B) requiring cable operators to block such single channel unless the subscriber requests access to such channel in writing; and

(C) requiring programmers to inform cable operators if the program would be indecent as defined by Commission regulations.

(2) Cable operators shall comply with the regulations promulgated pursuant to paragraph (1).

1 (b) Upon customer request, a cable or video provider shall, without charge, fully
2 scramble or otherwise fully block the audio and video programming of each channel
3 carrying such programming so that a person who is not a subscriber does not receive
4 the channel or programming.

****NOTE: Which programming is "such programming"? Should it refer to the programming specified in par. (c)?

5 (c) In providing sexually explicit adult programming or other programming
6 that is indecent on any channel of a cable or video provider's service that is primarily
7 dedicated to sexually oriented programming, the cable or video provider shall fully
8 scramble or otherwise fully block the video and audio portion of such channel so that
9 a nonsubscriber to such channel or programming does not receive it.

10 (d) For purposes of pars. (b) and (c), "scramble" means to rearrange the content
11 of the signal of programming so that the programming cannot be viewed or heard in
12 an understandable manner.

13 (16) SERVICE AVAILABILITY LISTING. A cable or video provider shall maintain a
14 listing, specific to the level of street address, of the areas where its cable or video
15 services are available. A cable or video provider shall inform customers who inquire
16 about purchasing cable or video service about whether the service is currently
17 available to them at their specific location.

****NOTE: Why is it necessary to require the above?

18 (17) PRIVACY PROTECTIONS. A cable or video provider may not disclose the name,
19 address, telephone number, or other personally identifying information of a cable or

programming

1 video service customer to be used in mailing lists or to be used for other commercial
2 purposes not reasonably related to the conduct of its business, unless the ~~cable or~~
3 video provider has provided to the customer a notice, separately or included in any
4 other customer service notice, that clearly and conspicuously describes the
5 customer's ability to prohibit the disclosure. A ~~cable or~~ video provider shall provide
6 an address and telephone number for a customer to use without toll charge to prevent
7 disclosure of the customer's name and address in mailing lists or for other
8 commercial purposes not reasonably related to the conduct of its business to other
9 businesses or affiliates of the ~~cable or~~ video provider. A ~~cable or~~ video provider shall
10 comply with all other privacy laws, including 47 USC 551, that are in effect on the
11 effective date of this subsection [revisor inserts date].

****NOTE: I recommend deleting the last sentence. It isn't necessary to require compliance with federal or other privacy laws. The laws themselves require compliance. Furthermore, the limitation to laws in effect on the effective date is confusing.

12 (18) CONSUMER COMPLAINTS; MEDIATION. A ~~cable or~~ video provider shall
13 implement an informal process for handling inquiries from municipalities and
14 customers concerning billing issues, service issues, privacy concerns, and other
15 consumer complaints. If an issue is not resolved through such informal process, a
16 municipality or customer may request nonbinding mediation with the ~~cable or~~ video
17 provider, with each party bearing its own costs of such mediation. Selection of a
18 mediator shall be by mutual agreement and preference shall be given to mediation
19 services that do not charge a consumer for their services. If the informal process does
20 not produce a satisfactory result to the customer or municipality, enforcement may
21 be pursued as provided in sub. (19) (e).

22 (19) ENFORCEMENT. (a) The department may enforce this section. A
23 municipality may enforce this section with respect to complaints received from

1 residents within the municipality's jurisdiction, but the municipality may not
2 impose or require compliance with any additional or different customer service or
3 performance standards than those specified in this section. programming

****NOTE: You may want DATCP's input on whether any changes are necessary to
bolster DATCP's enforcement authority.

4 (b) A municipality may enact an ordinance that provides a schedule of chapters
5 forfeitures for any material violation of this section by cable or video providers that
6 are in addition to the penalties provided under this section, except as follows:

****NOTE: Under Wisconsin law, municipalities may impose forfeitures, which are
assessed in a civil proceeding. Only the state may impose a fine in a criminal proceeding.
Therefore, I changed the proposal's reference "monetary penalties" to "forfeitures."

****NOTE: The above refers to penalties that are in addition to the penalties
provided under the section. However, other than the credits required under sub. (20), it
does not appear that any other penalties are created. Under s. 100.26, a person who
violates s. 100.209 is subject to criminal penalties of a fine of no more than \$200, no more
than 6 months imprisonment, or both. Do you want additional penalties to apply? If not,
the reference to additional penalties should probably be eliminated.

7 1. No forfeitures may be assessed for a material violation if it is out of the
8 reasonable control of a cable or video provider or its affiliate.

9 2. The forfeitures shall apply on a competitively neutral basis to all providers
10 of cable or video service within the municipality's jurisdiction. programming

11 3. The forfeitures may not exceed \$750 for each day of the material violation,
12 and may not exceed \$25,000 for each occurrence of a material violation per customer.

13 (c) The department or a municipality shall give a cable or video provider
14 written notice of any alleged material violations of this section and allow such
15 provider at least 30 days from receipt of the notice to remedy the specified material
16 violation.

17 (d) For purposes of this subsection, "material violation" means any substantial
18 failure of a cable or video provider to comply with this section and, for purposes of
19 assessing forfeitures, a material violation is considered to have occurred for each day

1 that a material violation has not been remedied by a cable or video service provider
2 after the expiration of the period specified in par. (c) in each municipality's
3 jurisdiction, regardless of the number of customers affected.

****NOTE: Why does the above refer to "each" municipality's jurisdiction? Why is
the number of customers affected mentioned, if the number is not relevant?

4 (e) The department and, subject to sub. (18), a municipality or customer may
5 bring an action against a cable or video provider for violation of this section. A cable
6 or video provider may bring an action to review a municipality's assessment of
7 forfeitures against the cable or video provider. A municipality is immune from civil
8 liability for its acts or omissions related to the enforcement or review of any terms,
9 conditions, or rights under this section, except that a court may require the return
10 of any forfeiture that the municipality incorrectly assessed against a cable or video
11 provider.

****NOTE: Does a customer have to be injured, or otherwise affected, by a violation
in order to bring an action? Should a municipality be limited to bringing an action for
violations that affect customers within its jurisdiction?

****NOTE: Paragraphs (b), (c), and (d) refer to "material violations" (rather than
"material breaches," which is used in the proposal). However, par. (e) refers to "violation."
Is that okay?

12 (20) CREDITS. (a) A cable or video provider shall credit customers for violations
13 of this section in the amounts specified in par. (b). The credits shall be applied on the
14 statement issued to the customer for the next monthly billing cycle following the
15 violation or following the discovery of the violation. A cable or video provider is
16 responsible for providing the credits and a customer is not required to request the
17 credit. If a customer is no longer taking service from a cable or video provider, the
18 cable or video provider shall refund the credit amount to the customer by check
19 within 30 days of the termination of service. A municipality may enact an ordinance
20 that requires a cable or video provider to give credits directly to customers for

programming

violating this section, if the ordinance applies on a competitively neutral basis to all cable or video providers in the municipality's jurisdiction, and except that the credits may not exceed the credits specified in par. (b).

(b) A cable or video provider shall give customers the following credits for the following violations of this section:

1. Failure to provide notice of customer service standards upon initiation of service, \$25.

2. Failure to install service within 7 days, waiver of 50 percent of the installation fee or the monthly fee for the lowest-cost basic service, whichever is greater.

3. Failure to install service within 14 days, waiver of 100 percent of the installation fee or the monthly fee for the lowest-cost basic service, whichever is greater.

4. Failure to remedy service interruptions or poor video or audio service quality within 48 hours, a pro rata credit of total regular monthly charges equal to the number of days of the service interruption.

5. Failure to keep an appointment or to notify the customer prior to the close of business on the business day prior to the scheduled appointment, \$25.

6. Violation of privacy protections, \$150.

7. Failure to comply with scrambling requirements, \$50 per month.

8. Violation of customer service and billing standards in sub. (8) or (9), \$25 per violation.

9. Violation of the bundling requirements in sub. (13) (a) 1., \$25 per month.

***NOTE: Which of the requirements under sub. (13) (a) 1. are the bundling requirements, or are they all bundling requirements? If they are all bundling requirements, then the above should refer only to sub. (13) (a) 1.

INSEAT
05-23

prohibition under

***NOTE: It may be advisable to revise subds. 1. to 7. to refer to statutory numbers, as is done in subd. 9.

SECTION 9. 182.017 (1) of the statutes is amended to read:

182.017 (1) RIGHT-OF-WAY FOR. Any domestic corporation organized to furnish telegraph or telecommunications service or transmit heat, power or electric current to the public or for public purposes, ~~an~~ any independent system operator, as defined in s. 196.485 (1) (d), ~~an~~ any independent transmission owner, as defined in s. 196.485 (1) (dm), ~~or a~~ any cooperative association organized under ch. 185 or 193 to furnish telegraph or telecommunications service ~~or a~~ any cooperative organized under ch. 185 to transmit heat, power or electric current to its members, any municipally regulated cable operator, as defined in s. 66.0420 (2) (~~dm~~), and any video service franchisee, as defined in s. 66.0420 (2) (y) may, subject to ss. 30.44 (3m), 30.45, 86.16 and 196.491 (3) (d) 3m. and to reasonable regulations made by any city, village or town through which its transmission lines or systems may pass, construct and maintain such lines or systems with all necessary appurtenances in, across or beneath any public highway or bridge or any stream or body of water, or upon any lands of any owner consenting thereto, and for such purpose may acquire lands or the necessary easements; and may connect and operate its lines or system with other lines or systems devoted to like business, within or without this state, and charge reasonable rates for the transmission and delivery of messages or the furnishing of heat, power or electric light.

SECTION 10. 196.85 (1m) (d) of the statutes is created to read:

196.85 (1m) (d) For the purpose of direct assessment under sub. (1) of expenses incurred by the commission in connection with its activities under s. 66.0420, the

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- 1 term "public utility" includes an applicant for a video service franchise, as defined
2 in s. 66.0420 (2) (x), or a video service franchisee, as defined in s. 66.0420 (2) (y).

3 (END)



INSERT 67-2